

IN THE MATTER OF THE WAGE CLAIM ) Case Nos. 1262-2004  
OF MATTHEW A. MARTIN, )  
)  
Claimant, )  
)  
vs. ) **FINAL AGENCY ORDER**  
)  
TIMBERLAND CONSTRUCTION, L.L.C., )  
a Montana limited liability company currently )  
in receivership, )  
)  
Respondent. )

The respondent has filed a motion to dismiss this matter indicating that the claim is time barred under Mont. Code Ann. § 39-3-207(1). Though directed to do so, the claimant has failed to respond to the motion. Accordingly, the hearing officer now proceeds to rule on the motion in the absence of any response from the claimant.

1. The face of the complaint in this matter discloses that the claimant last worked for the respondent on March 31, 2002. The claimant did not file his complaint until December 11, 2003, more than one year after he left his employment.

## II. CONCLUSIONS OF LAW

(1) An employee may recover all wages and penalties provided for the violation of 39-3-206 by filing a complaint

within 180 days of default or delay in the payment of wages.

The plain language of this statute compels the hearing officer to conclude that the claimant's claim in this matter is time barred. He ended his employment with the respondent on March 31, 2002. He did not file his complaint against the respondent until December, 2003, well over 360 days after the claim accrued. Accordingly, the claimant's complaint must be dismissed.

### III. ORDER

The claimant's claim is time barred. Accordingly, the Respondent's motion is well taken and this matter is dismissed pursuant to Admin. R. Mont. 24.16.7541(3). The previously set pre-hearing schedule, final pre-hearing date and hearing date are vacated.

DATED this 24th day of February, 2006.

DEPARTMENT OF LABOR & INDUSTRY  
HEARINGS BUREAU

By: /s/ GREGORY L. HANCHETT  
GREGORY L. HANCHETT  
Hearing Officer

NOTICE: You are entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 39-3-216(4), by filing a petition for judicial review in an appropriate district court within 30 days of service of the decision. See also Mont. Code Ann. § 2-4-702.